

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. EPB-02-150
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**ORDER AFFIRMING PROPOSED DECISION AND ORDER**

(Issued July 17, 2003)

On March 29, 2002, Interstate Power and Light Company (IPL) filed its multi-year emissions plan and budget (EPB) for managing regulated emissions from its coal-fueled electric power generating facilities located in Iowa, pursuant to Iowa Code § 476.6(25).

Iowa Code § 476.6(25)"a"(3) provides that an investor-owned utility's EPB shall be considered in a contested case proceeding pursuant to Iowa Code chapter 17A. On April 26, 2002, the Utilities Board (Board) docketed the proceeding as a formal contested identified as Docket No. EPB-02-150.

On June 17, 2002, the Board issued an order assigning the docket to the administrative law judge (ALJ) to establish a procedural schedule, set a hearing date, and conduct the proceedings. Iowa Code § 476.6(25)"d" provides that the Board shall issue an order approving or rejecting an EPB within 180 days after the utility's filing is deemed complete. On October 11, 2002, an order was issued by the ALJ deeming the EPB complete, setting a procedural schedule, and establishing a

hearing date. The ALJ conducted the proceedings as scheduled and subsequently issued a proposed decision and order approving IPL's EPB, as amended.

Subrule 199 IAC 7.8(2) requires that appeals from the proposed decision of the ALJ be filed with the Board within 15 days of the date the decision is issued. An appeal was timely filed by IPL. A timely response to IPL's appeal was filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate). Neither party requested opportunity for oral argument.

On April 18, 2003, pursuant to 199 IAC 7.8(2)"d," the Board issued a ruling on the issue to be decided on appeal. That issue will be addressed below.

### **ISSUE FOR CONSIDERATION ON APPEAL**

**Whether IPL is prohibited from using a rider mechanism with forecasted expenditures based upon an approved EPB.**

IPL asserts that the language in paragraph 6 of the conclusion of law section of the proposed order may be interpreted to preclude IPL's rider mechanism currently pending in Docket Nos. RPU-02-3 and RPU-02-8. IPL states that its rider mechanism uses IPL's EPB as the base for the dollar levels of emission expenditures to be included in rates; however, only actual expenditures consistent with the EPB are to be passed on to IPL's customers.

Consumer Advocate responds by stating that Iowa Code § 476.6(25)"e" expressly allows only the reasonable costs incurred for emissions to be recovered by

customers in rates and that IPL's request to amend paragraph 6 of the conclusions of law section does not comply with Iowa Code § 476.6(25)"e."

The record in this case demonstrates that IPL did not propose a mechanism to recover costs associated with its EPB in this docket. Rather, IPL proposed a rider mechanism for the recovery of costs in its rate case, identified as Docket Nos. RPU-02-3 and RPU-02-8. IPL elected not to fully litigate the use of a cost-recovery mechanism in this docket.

The ALJ determined that "only actual expenditures made pursuant to the plan and budget may be included in retail rates." ("Proposed Decision," p. 30.) This determination is based on the explicit language of Iowa Code § 476.6(25)"c" and "e." The ALJ also specifically provided that the mechanism to be used to recover costs associated with the EPB was to be determined in IPL's rate case.

The Board concurs with the ALJ's interpretation of Iowa Code §§ 476.6(25)"c" and "e," and her conclusion that only actual expenditures should be included in retail rates. The rider mechanism introduced in IPL's rate case is neither precluded, nor approved, by the ALJ's decision. Rather, it was appropriately deferred to the rate case for consideration. The preponderance of the evidence in this record does not support a reversal or modification of the proposed decision regarding this issue.

**ORDERING CLAUSE**

**IT IS THEREFORE ORDERED:**

The proposed decision and order issued by the administrative law judge on March 14, 2003, is affirmed as provided in this order.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 17<sup>th</sup> day of July, 2003.